

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 266 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

CHAUDHARY VAHJIBHAI MANABHAI SARPANCH

Versus

STATE OF GUJARAT

Appearance:

MR JAYANT PATEL for Petitioners
MR SN SHELAT, ADDL. AG with MR AD OZA,
GOVERNMENT PLEADER for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 4

CORAM : MR.JUSTICE M.S.SHAH

Date of Decision : 20/10/2000

CAV JUDGMENT

In this petition under Article 226 of the Constitution, the Sarpanch of Magha Aaliyasana Gram Panchayat and the Sarpanch of Gunjala Gram Panchayat have prayed for a writ of mandamus to direct the State Government to shift these villages from Visnagar Taluka

and include these two villages in Mehsana taluka at par with villages of Virta, Gorad, Kharasda, Davada and Gojaradya as such other villages have been included in Mehsana taluka as per the Government notification dated 31.12.1999.

2. In a separate judgment delivered today in Special Civil Application No. 10459 of 1999, this Court has already examined the legal contentions regarding the interpretation of the provisions of Section 7 of the Bombay Land Revenue Code, 1879 and Section 9 of the Gujarat Panchayats Act, 1993 and the contention about the application of the principle of audi alteram partem in such matters. For the reasons already recorded therein, this Court reiterates the view taken in the said decision that the village panchayat, members of the village panchayat or the residents of the village do not have any right to be heard before the State Government exercises its powers under the provisions of Section 7 of the Bombay Land Revenue Code for including a particular village in a particular taluka or to shift/exclude it from one taluka and to include it in another taluka.

3. It is submitted on behalf of the petitioners that village Gunjala is at a distance of only 3 kms. from Mehsana and village Magha Aliyasana is at a distance of only 8 kms. from Mehsana whereas Gorad and Virta (which were formerly in Chanasma taluka) are situate at a distance of 18 to 20 kms. from Mehsana and Village Gojariya is at a distance of 25 to 30 kms. from Mehsana. It is contended that the agriculturists of the villages go to Mehsana for selling their produce. The decision is alleged to be mala fide and under the political pressure of respondent No. 6 who is an MLA.

4. Affidavit in reply is filed by Mr Pankaj S. Pandya, Deputy Secretary, Revenue Department denying the allegations. It is submitted that the impugned decisions have been taken by the Cabinet independently without being influenced by any extraneous factor or pressure and after considering the details, requirements and the geographical situation and the relevant record as well as the reports made by the Cabinet Sub Committee. It is contended that both the villages are falling in Visnagar taluka since very beginning and that there was no reason to shift them from Visnagar taluka to Mehsana taluka. The petitioners have not made any reference in this petition about the grievances raised before the year 1999.

5. In view of the settled legal position that the

decision to include a particular village in a particular taluka is to be taken by the Government and that this Court does not sit in appeal over such decisions, in the facts and circumstances no case is made out for giving any direction to the State Government to include villages Megha Aaliyasana and Gunjala in Mehsana taluka. It is, however, directed that in case the concerned gram panchayats make representation/s to the State Government for including Megha Aaliyasana and Gunjala in Mehsana taluka, the State Government shall consider such representation/s on their own merits without being deterred by the fact that this Court has dismissed the petition only on the ground that this Court does not sit in appeal over the Government decisions in such matters and that ordinarily this Court does not interfere with the Government decisions in such matters.

6. The petition is accordingly disposed of with liberty to the respective gram panchayats to make representation/s to the State Government for including villages Magha Aaliyasana and Gunjala in Mehsana taluka. As and when such representations/s are made, the State Government shall consider such representation/s on their own merits.

Subject to the above liberty, Rule is discharged.
There shall be no order as to costs.

(M.S. Shah, J.)

sundar/-